

GOVERNMENT OF ANDHRA PRADESH
ABSRTACT

Suits – Arbitration – An amount of Rs.3,15,00,000 /- as full and final settlement of claims in OS No. 24/2003 on the file of the Principal District Judge Court, Kurnool in respect of the work relating to “Excavation and formation of Inlet channel from Km. 119.650 of K.C Canal to Alaganur Balancing Reservoir including CM& CD works under ICB 03 package entrusted to M/s Harvins constructions (P) Ltd. Hyderabad, vide Agreement No. SE/CC.II/53/1998-99, dated 11.03.1999- Sanctioned - Orders – Issued.

IRRIGATION&CAD (IRRIGATION WING: ARBITRATION) DEPARTMENT

G.O.Rt. No. 859

Dated: 27.08.2013.
Read the following

1. From the Hon'ble High Court of A.P., Hyderabad Judgment dated: 06.03.2009 in AS No. 426 of 2006
2. From the M.D., M/s.Harvins Constructions (P),Ltd,Hyd Lr. No. HCPC/ICB-03/Vol-9/109/ dated.09-04-2009.
3. From the CE(P), Irrgn., Kurnool, Lr.No.CE(P)/KNL/TS/TO/DEE.1/ ICB.03/148 Govt., dated.30.06.2009.
4. From the Engineer-in-Chief, Medium Irrigation,Hyderabad, Lr. No. ENC/Med/DCEIII/OT1/ARB-24/2009/, dated19.12.2009 and dated: 15-12-2010.

ORDER

The Chief Engineer(P), Irrigation, Kurnool in his letter 3rd read above, has reported that the work relating to” Excavation and formation of Inlet channel from Km. 119.650 of K.C Canal to Alaganur Balancing Reservoir including CM& CD works under ICB 03 package was entrusted to M/s Harvins constructions (P) Ltd. Hyderabad, vide Agreement No. SE/CC.II/53/1998-99, dated 11.03.1999. at tender percentage (+) 15.796% than ECV.

2. After concluding the Agreement, the Department has issued work order on 19.03.1999 to commence the work within 15 days and complete in (33) months. The Contractor has executed some scattered bits in clear area available and represented quoting Agreement clause 21.1 and clause 32.1, for compensation for an amount of RS. 515 Lakhs along with interest @ 18% P. A for idleness of men and machinery, for want of land Acquisition, controlled blasting, over head Electrical lines etc. The Contractor has approached the Technical Expert Committee for compensation under Clause (a) of the Contract.

(P.T.O)

3. The Technical Expert Committee in its decision dated 26.02.2003 has instructed the Department to pay compensation for an amount of Rs. 4,99,27,568/- with simple interest @ 12% p.a.. Aggrieved by this decision, the Department has filed OS No 24/2003 before the Principal District Judge Court, Kurnool with a prayer to keep aside the decision of the Technical Expert Committee. The Hon'ble Court in its judgment, dated 30.08.2005 in OS No. 24/2003 while allowing the suit in part has modified the Technical Expert Committee decision, for an amount of Rs.4,38,47,140/- with future interest @ 12% P.A on the amount of Rs. 4,33,97,415/- from the date of Technical expert's decision i.e 26.2.2003 till the date of realization of the amount. Aggrieved by this judgment, the Department has filed Appeal No 426/2006 in the Hon'ble High Court of AP, Hyderabad. The Hon'ble High Court in its interim order dated.18.01.2008 has stayed the execution of the decree with a condition to deposit half of the decretal amount and cost of suits within a period of (8) weeks from 18.1.2008. Accordingly, the Department has deposited an amount of Rs.3,52,41,927/-.

4. Subsequently, the Hon'ble High Court in its Judgment, dated 06-03-2009 in A.S.No.426/2006, has directed the respondent-defendant to approach the Principal Secretary of the Department concerned by filing appropriate comprehensive representation within a period of (3) weeks from today i.e 6.3.2009 on filing of which, the said authority shall Conciliate the meeting and try to settle the matter within a period of (3) months thereafter. In pursuance of these directions and on receipt of the representation from the Contracting firm the matter has been referred to the Conciliation Committee concerned as constituted for the purpose vide G.O Rt. No. 103, dated 24.01.2008. The Committee has submitted its report.

5. After examination of the Committee report, all the disputed claims have been negotiated with the Managing Director, M/s Harvins Constructions (P) Ltd. Hyderabad in the final Conciliation meeting held on 12.12.2012. During the meeting, he has expressed his willingness to accept the lumpsum amount of Rs.. 3,15,00,000/- as full and final settlement of all the claims including interest and any other incidentals in respect of OS No24/2003. To this effect, he has given a declaration on a notarized affidavits stating that he shall withdraw all legal proceedings in respect of work covered under OS No. 24/2003 against the Government of Andhra Pradesh or its representative officer after realization of accepted amount.

6. After careful examination of the entire matter, it has been decided to accept the claim offered by the Contracting firm. Accordingly, Government hereby accord sanction for an amount of Rs. 3,15,00,000/- (Rupees Three crores Fifteen Lakhs only) as full and final settlement of all the claims including interest in OS No.24/2003 on the file of the Hon'ble Principal District Judge Court, Kurnool in respect of the work relating to "Excavation and formation of Inlet channel from Km. 119.650 of K.C Canal to Alaganur Balancing Reservoir including CM& CD works package No.

(Contd..3)

..3..

ICB 03 entrusted to M/S Harvins Construction (P) Ltd vide Agreement No. SE/ICC-II/53/98-99 dated: 11.03.1999, subject to condition that the above Contracting firm should withdraw all the legal proceedings pending in the Courts in respect of the above work against the Govt., or its representative officer after realization of the sanctioned amount.

7. The expenditure sanctioned in para (6) above shall be debitale to the detailed Head of Account under **“MJH 4700, SMJH 01, MH 109 K.C. Canal, GH (11) normal State Plan, SH (27) Canals and distributaries, 530 Major Works, 531 other expenditure (Charged)”**.

8. The Chief Engineer (P), Irrigation, Kurnool is directed to deposit the above sanctioned decretal amount to the credit of OS No. 24/2003 on the file of the Principal District Judge Court, kurnool, for avoiding further legal complications in the matter. He is also directed to instruct the disbursing officer concerned to obtain a declaration from the above contracting firm accepting the amount as full and final settlement of all its claims before depositing the above sanctioned amount in the respective Court.

9. This order issues with the concurrence of Finance (W&P) Deptt, vide their U.O No. 666/F5(A2)/13-1, dated 05.03.2013..

(BY ORDER AND IN THE NAME OF THE GOVERNER OF ANDHRA PRADESH)

AJOYENDRA PYAL
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To

The Chief Engineer (P), Irrigation, Kurnool
The Superintending Engineer, SRBC Circle No.1 Nandyal.
The Accountant General, Hyderabad
The District Treasury Officer, Kurnool
The Pay and Accounts officer Nandyal
The Managing Director,
M/s.Harvins Constructions (P) Ltd.,8-2-322/H, Road No.3, Banjara Hills,
Hyderabad – 500 034

Copy to

The P.S to Spl. Secretary to C.M
The PS to Minister (M&MI)
The G.P for Arbitration , High Court of A.P, Hyderabad.
The PS to Spl. Chief Secretary, I & CAD Deptt.,
The Law (B) Deptt,
The Finance (W&P) Department.
The I & CAD (P&B) Deptt.,with a request to release LOC/ authorization for
the expenditure sanctioned above.

SF/SC.

//FORWARDED:: BY ORDER//

SECTION OFFICER